

**Michigan Association of School Psychologists  
Comments on Restraint and Seclusion  
HB 5409 - 5418**

Chair Price and members of the House Committee on Education:

Thank you for including the Michigan Association of School Psychologists in discussions on restraint and seclusion, for recognizing our work in this field, and for working with the Association on its compliments and suggestions on the restraint and seclusion legislation. The Michigan Association of School Psychologists enthusiastically supports the concept of codifying the regulations for using Restraint and Seclusion. We believe that the state's Standards for the use of Seclusion and Restraint are important and have been helpful in assuring appropriate use of these techniques. In the schools that have chosen to abide by these regulations, the use of Restraint and Seclusion has improved greatly. Codifying this will only make this stronger and provide more momentum for this change. We only have a few concerns with a couple specifics in the bill package.

There are a few term definitions that could be brought in line with professional standards. This can then allow research and literature within the state of Michigan to be compared to that across the nation. Another concern is in defining what specialist means. We would suggest this can be determined by specialized graduate training in behavior, as required by the National Association of School Psychologists (NASP). Therefore, if a person received a degree from a graduate program that has NASP approval, they would meet this standard. These and several other suggestions are attached.

However, the greatest concern we have is in regard to the definition of what can be used as an Emergency Seclusion room. Further, the degree of this concern varies between whether it is a typical school or a center-based school for students with profound disabilities. As bothersome as the thought of these rooms can be, they can at times have very important therapeutic value, particularly for our most impaired students. There is no question that most schools need to be more selective about the use of these rooms and need to more closely follow the Michigan Department of Education's policies regarding seclusion. However, without this clarity, there will be a group of our most impaired students, often in our center programs, who are more likely to be excluded from school and programs. These students will be more likely to have police involvement, and thus are more likely to be suspended or removed from school.

Thank you again for considering MASP's input. We look forward to working with you on this important and vital legislation.

Sincerely,

Marvin Nordeen  
President  
Michigan Association of School Psychologists

# Proposed Amendment to the Revised School Code

## MCL 380.1 to 380.1852, adding 1312.a

The Michigan Association of School Psychologists (MASP) gladly embraces legislation to protect the rights and dignity of our children and is pleased to see the emphasis on training placed in the proposed legislation. Without sufficient training, meaningful instruction and safe environments cannot be maintained. Further, we believe that School-Wide Positive Behavior Support (SW-PBIS), as a component of a Multi-tiered System of Support (MTSS) will foster this and is central to our ability to make this happen.

Like the legislators drafting this bill, we are quite opposed to any school personnel locking a child alone in a room, from which they have no means of egress. And should it be necessary to maintain safety, separating a child from peers or restraining the child should be done rarely and with great regard for the child's dignity. We support, and find very promising, the differentiation of Seclusion and Separation.

The Michigan Association of School Psychologists offers the following comments on the bill as it is currently drafted.

- **Understanding the definitions of Seclusion and Separation**  
Further definition of separation may be required
- **Floor Restraints**  
Under the Prohibited section, it may be more effective to list Floor Restraint, rather than just Prone with further clarification
- **Emergency Intervention Plan**  
Rather than vaguely requiring "periodic" reviews, to clearly require at least "biannual" or "quarterly" reviews of the data.  
In this section, it is also recommended that a "Human Rights Committee" may be convened be added
- **Releasing from Emergency Physical Restraint**  
"Emergency Physical Restraint should not be used any longer than necessary to allow the pupil to regain control of his or her behavior" should be changed to "begin the process of releasing," when the child "no longer poses an imminent danger,"
- **Debriefing**  
MASP applauds the continued requirement of a debriefing after the incident.
- **Exceptions**  
Add a section that would require a process to allow moderate exceptions for exceptional circumstances

## **For further explanation of each bullet point see attached pages**

### **Understanding the definitions of Seclusion and Separation**

Seclusion, as defined here, is a barbaric and traumatizing concept. However, further definition of separation may be required, either here or through case law. Until schools can fully process and understand the intent, there will be significant confusion. For instance, is it "Separation" in the following scenario? A six year-old child loses control, will not leave the classroom, is swearing profusely, and severely disrupting the learning environment, so the rest of the class transitions to the library to continue the educational lesson, maintain safety and the dignity of the child in crisis. This can be referred to as "reverse timeout." This is just one example. Others will also emerge as schools attempt to understand the meaning and intent of this bill.

### **Floor Restraints**

Under the Prohibited section, it may be more effective to list Floor Restraint, rather than just Prone. Under the Floor Restraint heading, further clarification could be added indicating this would include Prone, Supine, or any other use of the floor while restraining a child. It could then also indicate that, should the child initiate going to the floor while in a restraint (which at times simply can't be avoided), the adults will disengage if safety allows, or do all they can, with periodic repeated attempts, to return the child to their feet.

### **Emergency Intervention Plan**

The concept of each school having a clearly defined and documented Emergency Intervention Plan is a very exciting concept. One additional suggestion under this section would be that rather than vaguely requiring "periodic" reviews, to clearly require at least "biannual" or "quarterly" reviews of the data, as suggested in the PBIS research. Regular reviews of this data is a fundamental component of any MTSS or PBIS approach and meets "best practice" requirements. In this section, it is also recommended that a "Human Rights Committee" may be convened. In some schools, a committee, such as a Behavior Review Committee, is used to review behavior plans. These committees are much like a Human Rights Committee and are used to assess whether or not behavior interventions are in-keeping with Local, State, and National laws and standards, and also in-line with Best Practice. This format could also be used to review these building-wide plans.

### **Releasing from Emergency Physical Restraint**

Under subsection 4, B, vii, on page 4 starting on line 26, "Emergency Physical Restraint should not be used any longer than necessary to allow the pupil to regain control of his or her behavior..." It has been found that when this criteria is set, people are unclear of what "regain control" means and they tend to restrain children longer than may be necessary. However, when we use the reference that they need to

"begin the process of releasing," when the child "no longer poses an imminent danger," they tend to have shorter duration to their restraint.

### De-escalation techniques

Under subsection 5, D, starting on page 10, the definition of "De-escalation techniques." These de-escalation techniques are "used before, during, and after a crisis." It is important for staff to understand there is a lot they can do before a potential crisis to keep it from occurring. However, it is also very important to understand that there are important things to do (or to not do) during the crisis to keep it from escalating any further. And then in the de-escalation phase, it is again important to understand these techniques can often be used to keep the child from re-escalating.

### Debriefing

MASP applauds the continued requirement of a debriefing after the incident. As school psychologists, behavior interventionists, and child advocates, we believe that any crisis situation should also be a learning event for staff. We should learn from the situation and find ways to hopefully avoid ever having a crisis again, but minimally reducing the severity of future crises. We also acknowledge the potential trauma that may be experienced. In the debriefing process, schools need to assess any potential trauma that may have been experienced by the child, his/ her peers, the parent, the staff involved, and any other individual who may have been impacted by the scenario.

### Exceptions

There are times when, to the best of the ability of a highly-trained staff, it is not possible to keep the child in the school building, while maintaining the criteria set in this law. This would at times result in increased suspensions of the child, or transferring the child to segregated facilities, when it may be an intense, but *transient* behavior escalation.

Would it be reasonable to add a section that would require a process to allow moderate exceptions that are acceptable to parents, or at times even requested by parents, when attempting to keep the child in the building while addressing the extreme behavior?

For instance, in some schools, a Behavior Review Committee (referred to above), much like a Human Rights Committee, meets on a regular basis to determine whether or not behavior interventions are necessary, helping, in-keeping with Local / State / National laws and standards, and also in-line with Best Practice. If the parents had been an active part of the Functional Behavior Assessment (FBA) process, as well as the processes of determining the behavior interventions, at times, it may be in the child's best interest to push the limits of this document.

A specific example: A middle school child with Asperger's Syndrome became quite attached to a paraprofessional assigned to support him. However, beyond the control of the school, she was no longer able to support him. This caused great anxiety for the student, while he was readjusting to the new paraprofessional. While in this transition stage, the child had significant difficulty coping with all of the other students in his class, particularly during work times. As an accommodation, he was assigned

an empty administrative office as his own "office." This was his safe place. He could go to his office after the class lecture was complete, or any time he indicated he could not cope with the stresses of the large classroom. A plan was also put into place to measure the amount of time he spent in his office and to encourage him to spend more and more time in the large classroom.

According to the proposed legislation, these important deviations from the normal school routines become more difficult. And though, on the surface we want to put legislation in place that protects the rights and dignity of all, we have to be careful that the same legislation doesn't impair our ability to develop creative solutions for the unique individuals we serve.

MASP is very much in support of this, and any legislation that will promote the safety, dignity, and general well-being of Michigan's children. We look forward to any opportunity to give our assistance in this process.

